In the High Court for the States of Punjab and Haryana, at Chandigarh.

F.A.O.No.1094 of 1987
Decided on Sept 13,2006.

Smt.Santosh Kumari and others -- appellants

vs.

Madan Lal and others --respondents

Present: Mr. Rohit Sharma,Advocate,for the appellants

Mr. Neeraj Khanna,Advocate,for Insurance Company.

Mr.S.S.Randhawa, A.A.G,Punjab.

Pritam Pal J:(Oral)

This appeal, by claimants, namely Smt. Santosh Kumari, wife, Pardeep Kumar, minor son, Kiran Bala and Anju Bala, minor daughters, of Om Parkash-injured, is directed against the order dated August 11,1987, whereby their claim petition was dismissed, mainly on the ground that the same was not found to have been filed by the injured himself and that the claimants/appellants were also not duly authorised agents of the injured.

Without going into the details, suffice it to say that the accident in question had taken place on January 23,1985. The claim petition was filed on June 13,1985 i.e. within six months of the occurrence of the accident. In fact, it is there on the file that the injured himself was unable to move the claim petition within the stipulated period because of the injuries sustained by him. It is also there on the file that an application for being impleaded as a claimant, was moved by the injured. However, the same was rejected on the ground that it was not

filed within period, prescribed under Section 110-A of the Motor Vehicles Act,1939 (hereinafter referred to as "the Act".)

Learned Claims Tribunal, however, after recording complete evidence and hearing learned counsel for the parties, dismissed the claim petition, as stated above. Learned counsel for the appellants has made a reference to the original claim petition, wherein it has been specifically pleaded by Smt. Santosh Kumari, wife of the injured that she had filed the claim petition for the benefit of her husband/injured as well as minor children. Not only that she has also specifically averred in the claim petition that her husband had become disabled and was thus unable to move the application for compensation. Under the provisions of Section 110-A of the Act, such an application could be moved even by any agent duly authorised by the injured person. While appearing as AW-1 Smt. Santosh Kumari, has specifically stated that she had moved the claim petition for her benefit as well as for the benefit of her minor children and for the benefit of injured i.e.Om Parkash, her husband. Admittedly, it has been time and again observed by the Courts that the Legislation under the Act, is for the welfare of the victims. As such, the claim made thereunder should not be defeated merely on the ground of technicalities and niceties.

It is also to add here that Om Parkash-injured later on had also moved an application for being impleaded as a claimant in the petition, which had been filed well in time by his wife Smt. Santosh Kumari, however, the same was rejected on the ground of limitation. Whereas his that application for impleadment could not have been

dismissed inasmuch as the original claim petition was filed well in time i.e within six months of the occurrence of the accident, as required under Section 110-A of the Motor Vehicles Act, 1939.

Taking into consideration the aforesaid facts and circumstances, the observations made by learned Claims Tribunal in para 15 of the impugned order regarding in-competency in filing the claim petition brought by Smt. Santosh Kumari,wife of the injured, are not maintainable.

Before proceeding further, it is also pertinent to mention here that the learned Claims Tribunal has also erred for not assessing the quantum of compensation inspite of the fact that a specific issue No.1 was framed in that behalf.

In view of my foregoing discussion, this appeal is allowed and the impugned order is set aside. Now the case is remitted to the learned Claims Tribunal,Jalandhar, for deciding the claim petition on merits pertaining to the quantum of compensation on the basis of material already brought on the file after hearing learned counsel for the parties.

The parties through their counsel are directed to appear before the learned Motor Accident Claims Tribunal,Jalandhar, on October 10,2006. The record of the case be sent back to the concerned Court.

Sept 13,2006, (Pritam Pal)
RR Judge